

1 CHARLENE M. MORROW (CSB NO. 136411)
cmorrow@fenwick.com
2 VIRGINIA K. DEMARCHI (CSB NO. 168633)
vdemarchi@fenwick.com
3 RACHAEL G. SAMBERG (CSB NO. 223694)
rsamberg@fenwick.com
4 KIMBERLY I. CULP (CSB NO. 238839)
kculp@fenwick.com
5 SALAM RAFEEDIE (CSB NO. 250191)
srafeedie@fenwick.com
6 FENWICK & WEST LLP
Silicon Valley Center
7 801 California Street
Mountain View, CA 94041
8 Telephone: (650) 988-8500
Facsimile: (650) 938-5200

9 Attorneys for Plaintiff
10 JOBY, INC.

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 JOBY, INC.,

17 Plaintiff,

18 v.

19 TOCAD AMERICA, INC.,

20 Defendant.
21

Case No. 3:07-CV-06455 (SI)

**DECLARATION OF JOEL MELAMED
IN SUPPORT OF JOBY, INC.'S
MOTION FOR A PRELIMINARY
INJUNCTION**

Date: May 2, 2008
Time: 2:00 p.m.
Courtroom: 10, 19th Floor
The Honorable Susan Illston

22 I, Joel Melamed, declare as follows:

23 1. I work in business development at Joby, Inc. I make this declaration based upon
24 my personal knowledge, and if called upon testify, could and would testify competently to the
25 matters set forth below.

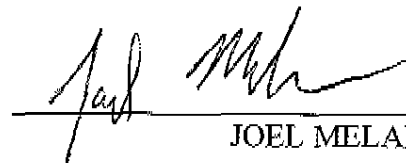
26 2. I began working at Joby in September 2006. I am currently responsible for sales
27 of the Gorillapod to select accounts in the United States, including the outdoor and independent
28

3. In mid-January 2008, Joby participated in the Outdoor Retailer trade show in Salt Lake City, Utah. I staffed Joby's booth at the show, where I displayed Joby's products and talked to current and prospective customers.

4. During the show, a woman whom I understood to be the merchandise manager for a company named Sahalie approached me at the Joby booth. She told me that Sahalie was very pleased to be carrying the Gorillapod and that she wanted her company to start carrying the full line of Gorillapods. I told her that I was fairly certain that Sahalie did not carry the Gorillapod at all, but a knock-off version of the Gorillapod. She seemed surprised and told me that her company did not carry knock-offs.

5. Attached hereto as Exhibit A is a true and correct copy of page from Sahalie's web site (www.sahalie.com) that appears when the word "tripod" is typed in the search window. The web page shows two flexible tripods – the FlexPod and the FlexPod Pro – both of which are distributed by Tocad.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed this 21st day of March, 2008, in Truckee, California.



JOEL MELAMED

25933/00402/LIT/1282582.1